UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

SLEEP TIGHT DIAGNOSTIC CENTER, LLC,

Plaintiff,

Civil Action No.: 18-03556 (FLW)(DEA)

v.

ORDER

AETNA INC., AETNA HEALTH INC., AND AETNA LIFE INSURANCE.

COMPANY,

Defendants.

THIS MATTER having been opened to the Court by Colin J. O'Boyle, Esq., counsel for

Defendants Aetna, Inc., Aetna Health Inc., and Aetna Life Insurance Company ("Aetna" or

"Defendants"), on a Motion to dismiss Plaintiff Sleep Tight Diagnostic Center, LLC's ("Plaintiff")

First Amended Complaint, pursuant to Federal Rule of Civil Procedure 12(b)(6), on the basis of

ERISA preemption, lack of standing, and the failure to exhaust administrative remedies; it

appearing that Sleep Tight, through its counsel, John W. Leardi, Esq., opposes the motion; the

Court having considered the submissions of the parties without oral argument, pursuant to Fed. R.

Civ. P. 78; for the reasons set forth in the Opinion filed on this date, and for good cause shown,

IT IS on this 27th day of June, 2019.

ORDERED that Aetna's Motion to dismiss is **GRANTED** in part and **DENIED** in part as

follows:

In the First Amended Complaint, Plaintiff seeks to recover insurance benefits on behalf of twenty-five patients who were provided sleep study services, including: A.K., A.O., C.A., C.W., G.J., H.H., J.B., J.F., J.W., K.B., L.F., M.P., R.B., R.F., Ri. M., Rob. M., Rog. M., S.B., T.C., A.T., A.Y., P.D., R.T., S.L., and M.T.

ORDERED that Plaintiff's claims relating to G.J., H.H., J.F., J.W., L.F., M.P., R.B., Ri. M., Rog. M., S.B., T.C., P.D., R.T., and M.T. are dismissed; it is further **ORDERED** that the Court declines to exercise supplemental jurisdiction over Plaintiff's state law claims with respect to A.T., A.Y., and S.L.; it is further **ORDERED** that the Motion is denied as to the claims relating to A.K., A.O., C.A., C.W., J.B., K.B., R.F., and Rob. M; and it is further

ORDERED that, by July 26, 2019, Plaintiff is directed to show cause, in writing, why its denial of benefits claims as to those remaining insureds should not be dismissed on *forum non-conveniens* grounds.

/s/ Freda L. Wolfson Freda L. Wolfson U.S. Chief District Judge